



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CHEMICAL SAFETY AND  
POLLUTION PREVENTION

FEB 17 2012

Mr. Todd Staples, Commissioner  
P.O. Box 12847  
Austin, Texas 78711

**Effective Date:** March 9, 2012  
**Expiration Date:** March 9, 2013  
**Report Due:** September 9, 2013  
**File symbol:** 12-TX-05

**Attn:** Dale Scott

The Environmental Protection Agency hereby re-issues a specific exemption under the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to the Texas Department of Agriculture for use of anthraquinone to repel sandhill crane on corn, field and sweet, seed.

In correspondence dated February 13, 2012, the Texas Department of Agriculture re-certified that the emergency condition still existed and that there were no changes to the use directions as approved in last year's authorization dated February 18, 2011, including not limited to, the use rate, type of applications, number of units to be treated, etc. This authorization is subject to the conditions and restrictions outlined below, as well as those specified in your request submitted to the EPA.

- 1) The Texas Department of Agriculture is responsible for ensuring that all provisions of this specific exemption are met. It is also responsible for providing information in accordance with 40 Code of Federal Regulations (CFR) §166.32(b). Accordingly, a report summarizing the results of this program must be submitted to EPA Headquarters and to the EPA Region 6 office within 6 months of the expiration of this exemption or prior to requesting another specific exemption for this use.
- 2) The two unregistered products, Apivel<sup>®</sup> Liquid Seed Treatment (containing 50.0% anthraquinone) and Apivel<sup>®</sup> Dry Powder Corn Seed Treatment (containing 95.0% anthraquinone), both manufactured by Arkion Life Sciences, may be applied. All applicable use directions, restrictions, and precautions on the Section 18 labels submitted with your February 13, 2012 application must be followed unless otherwise modified in this authorization document.

- 3) Apivel® Liquid Seed Treatment may be applied directly to corn seed at a maximum rate of 1 gallon of product per 980 pounds corn seed (0.085 lbs. a.i./A). A maximum of 5,612.24 gallons (27,500 lbs. a.i.) of product may be used. Apivel® Dry Powder Corn Seed Treatment may be applied directly to corn seed at a maximum rate of 3.5 ounces of product per 42 pounds of corn seed (0.085 lbs. a.i./A). A maximum of 28,947 lbs. (27,500 lbs. a.i.) of product may be used. For each of these products, a maximum of 1 application may be made per acre per season. For each of these products, a maximum of 1 application may be used per season.
- 4) Corn seed sufficient to plant a maximum of 250,000 acres may be treated in Texas under this specific exemption.
- 5) Treated seed must not be used for food, feed or oil processing (leftover treated seed should not be stored but should be double-sown around the headland).
- 6) Treated seed must be adequately dyed in accordance with 21 CFR § 2.25 to prevent use as a food or feed item.
- 7) Apivel® Liquid Seed Treatment and Apivel® Dry Powder Corn Seed Treatment applications may be made until March 9, 2013.
- 8) In accordance with 40 CFR 166.32(a), the EPA Headquarters and EPA Region 6 offices shall immediately be informed of any adverse effects resulting from use of this pesticide in connection with this exemption.
- 9) Stocks of the unregistered products Apivel® Liquid Seed Treatment and Apivel® Dry Powder Corn Seed Treatment may be produced and introduced into the channels of trade as part of this authorization in accordance with 40 CFR 152.30(e). Any unused, unregistered product must either be returned to the manufacturer or distributor (unopened containers) or disposed of in accordance with Resource Conservation and Recovery Act regulations following the expiration of this specific exemption.

This is the eighth year overall that this use has been requested under Section 18 of FIFRA and the fifth year it has been issued to the Texas Department of Agriculture. The registrant is currently working toward section 3 registration and a PRIA date in December 2013 has been negotiated with the Agency. For repeat emergency exemption requests, EPA evaluates whether a registrant is working toward a general registration for the requested use. Generally, five years from authorization of the initial section 18 request is considered a sufficient amount of time to submit a tolerance/tolerance exemption petition for IR-4 supported actions. Please note that progress toward registration is a consideration for deciding whether future emergency exemption requests for this use will be approved.

In the event that the Texas Department of Agriculture requests this use pattern next year in connection with an emergency exemption, EPA is making a preliminary determination that this use is eligible for the re-certification program (40 CFR 166.20(b)(5) in 2013.

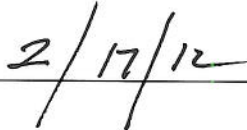
Any future correspondence in connection with this authorization shall refer to file symbol 12-TX-05.

If you or your staff has any questions with respect to this authorization, please contact Emergency Response Team member, Stacey Groce (703-305-2505, [groce.stacey@epa.gov](mailto:groce.stacey@epa.gov)).

A handwritten signature in black ink, appearing to read "Steve Bradbury", written over a horizontal line.

Steven Bradbury, Ph.D, Director  
Office of Pesticide Programs

Date:

A handwritten date "2/17/12" written in black ink over a horizontal line.

cc: EPA Region 6, Johnie Dowell